

REMARKS

The present application was filed on September 26, 2003 with claims 1 through 24. Claims 1 through 24 are presently pending in the above-identified patent application.

In the Office Action, the Examiner rejected claims 1-24 under 35 U.S.C. §102(e) as
5 being anticipated by Brunson (United States Patent Application Publication Number 2007/0121808).

Independent Claims 1, 12 and 17

Independent claims 1, 12, and 17 were rejected under 35 U.S.C. §102(e) as being anticipated by Brunson. With regard to claims 1, 12, and 17, the Examiner asserts that Brunson
10 discloses, among other features, “an deliver said voice mail message to said recipient to automatically respond to the sender an indication of a presence of said sender.” (sic; citing pars. 0056, 0093, 0098, 0108).

Brunson, however, does *not* disclose or suggest delivering said voice mail message to said recipient with an indication of a presence of a sender, said indication including an
15 identification of at least one device where the sender is present, as required by independent claims 1 and 17.

Regarding claim 12, Applicants note that Brunson does ***not*** disclose or suggest *providing a mechanism* for a recipient (of a voice mail message) to automatically respond to a sender at a device where the sender is believed to be present, as required by independent claim 12.

20 Rather, in the third embodiment of Brunson, relied upon by the Examiner, and discussed, for example, in par. 0093, Brunson describes an embodiment where a contacting party (caller) initiates a contact with a contacted party (called party). If there are unheard messages between these parties, the unheard message(s) is played to the contacting party before completion of the call. See, Par. 0093, 2d to last sentence. While the messages may be voice mail messages, there
25 is no suggestion that the messages contain “an identification of at least one device where the sender is present” (claims 1 and 17) or “a ***mechanism*** for a recipient (of the voice mail message) to automatically respond to a sender at a device where the sender is believed to be present” (claim 12).

Likewise, in the fourth embodiment of Brunson, relied upon by the Examiner, and discussed, for example, in par. 0108, Brunson describes an embodiment where a contacting party
30 (caller) initiates a contact with a contacted party (called party). The contacting party is presented with a message history between the parties. See, Par. 0108, lines 6-12. Again, while the messages

may be voice mail messages, there is no suggestion that the messages contain “an identification of at least one device where the sender is present” (claims 1 and 17) or “a ***mechanism*** for a recipient (of the voice mail message) to automatically respond to a sender at a device where the sender is believed to be present” (claim 12).

5 Thus, Brunson does *not* disclose or suggest delivering said voice mail message to said recipient with an indication of a presence of a sender, said indication including an identification of at least one device where the sender is present, as required by independent claims 1 and 17.

10 Likewise, Brunson does *not* disclose or suggest *providing a ***mechanism**** for a recipient (of a voice mail message) to automatically respond to a sender at a device where the sender is believed to be present, as required by independent claim 12.

15 Thus, since Brunson does not disclose each limitation of the independent claims. Thus, at best, Brunson can potentially be considered as prior art only under Section 103. Brunson and the present application, however, were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. See, cover page of Brunson and recordation information for the present application at Reel 014553, Frame 0433. In addition, Brunson only qualifies as prior art under Section 102(e).

20 Pursuant to Section 103(c), “subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, *shall not preclude patentability* under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.” (emphasis added).

 Thus, Brunson does not meet the burden required by Section 102 and is not available as prior art under Section 103.

25 Applicants respectfully request the withdrawal of the rejection of claims 1, 12 and 17.

Dependent Claims 2-11, 13-16 and 18-24

30 Dependent claims 2-8, 11, 13, 16, and 18-24 were rejected under 35 U.S.C. §102(e) as being anticipated by Brunson. Claims 2-11, 13-16, and 18-24 are dependent on claims 1, 12, and 17, respectively, and are therefore patentably distinguished over Brunson because of their dependency from independent claims 1, 12, and 17 for the reasons set forth above, as well as other

elements these claims add in combination to their base claim.

All of the pending claims, i.e., claims 1 through 24, are in condition for allowance and such favorable action is earnestly solicited.

5 If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

The Examiner's attention to this matter is appreciated.

Respectfully submitted,



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